

# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

James S. Gilmore, III  
Governor

John Paul Woodley, Jr.  
Secretary of Natural Resources

Northern Virginia Regional Office  
13901 Crown Court  
Woodbridge, VA 22193-1453  
(703) 583-3800 fax (703) 583-3801  
<http://www.deq.state.va.us>

Dennis H. Treacy  
Director

Gregory L. Clayton  
Regional Director

## NOTICE OF VIOLATION

July 31, 1998

Ms. Margaret A. Moore, Director  
Government of the District of Columbia  
Department of Corrections, Suite N-203  
1923 Vermont Avenue, N.W.  
Washington, DC 20001

**Certified Mail**  
**Return Receipt Requested**

Subject: Lorton Correctional Institute, NOV #98-07-NVRO-023  
VPDES Permit No. VA0030163  
USEPA ID. No. VAD980830988

Dear Ms. Moore:

This letter notifies you of information upon which the State Water Control Board and /or the Director may rely to institute an administrative or judicial enforcement action. It is neither a case decision under the Virginia Administrative Process Act, Code § 9-6.14:1 *et seq.*, nor an adjudication.

### FACTS AND LEGAL REQUIREMENTS

During the dates of May 12 -14, 1998, the staff of the Department of Environmental Quality (DEQ), Northern Virginia Regional Office (NVRO) conducted a multimedia inspection at the DC Department of Corrections (DCDC) facility at Lorton, Fairfax County, Virginia in conjunction with an EPA Region III multimedia inspection. Based on the observations made and information obtained during this inspection, the DEQ-NVRO has reason to believe that the

facility may be in violation of the State Water Control Law (SWCL), the Virginia Hazardous Waste Management Regulations (VHWMRs), the Virginia Underground Storage Tank Regulations (UST Regs), and the Virginia Above Ground Storage Tank Regulations (AST Regs). The following contains the staff's observations and comments and identifies the applicable law and regulation(s):

**A. Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.):**

During the site visit, NVRO conducted a Compliance Schedule Evaluation and evaluated the facility for compliance with the VHWMRs as a large quantity generator.

1. DCDC operates a paint booth at the Vocational School. We asked the facility contact, Ted Streets, DCDC auto body shop instructor, how the waste paint and waste paint filters were being managed. He said that he sprays the waste paint and thinner from the paint guns into the paint filters and that he usually throws the contaminated filters in the trash.

*Under VHWMR 9 VAC 20-60-340 (§6.1), a person who generates a solid waste shall determine if that waste is a hazardous waste.*

2. At the time of the inspection, the facility was unable to provide documentation to show that Mr. Streets, had received hazardous waste training. According to Mr. Streets, he has not received any hazardous waste training.

*Under VHWMR 9 VAC 20-60-370.E.1.d (§6.4.E.1.d) and 9 VAC 20-60-530.G.1 (§9.1.G.1), personnel are required to participate and complete a program of classroom training or on-the-job training in hazardous waste management procedures.*

*Under VHWMR 9 VAC 20-60-530.G.3 (§9.1.G.3), personnel are required to participate in an annual review of the initial training.*

Mr. Streets is not included in DCDC's training plan.

*Under VHWMR 9 VAC 20-60-530.G.4 (§9.1.G.4), the owner/operator should maintain the following documents and records at the facility: job titles for each position at the facility related to hazardous waste management; the name of each employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given to each person; and records that document that the training or job experience required has been given to, and completed by facility personnel.*

3. DCDC's Hazardous Waste Contingency Plan does not include the Vocational School's Auto Body Shop.

*Under VHWMR 9VAC 20-60-550.D (§9.3.D.) the facility's contingency plan must be amended whenever the facility changes its design, construction, or operation.*

4. According to Ray Sullivan, DCDC - Industries, and Ajay Kapoor, DCDC - Facilities, the facility no longer washes ink contaminated rags and has rerouted the wastewater from the laundry operation to bypass the ink pit. DCDC's "Toxic Reduction Evaluation Plan", September 1994, states that "the ink pit functions as an oil/grit separator where solvent, oil and grease, ink and suspended solids are separated from the wastewater. The solvent, oil and grease float to the surface whereas ink and settleable solids settle to the bottom of the pit." The ink pit contains solvent, oils and grease, ink and solids. According to Mr. Sullivan and Mr. Kapoor, the ink pit was taken off-line in November 1995, and the wastewater from the laundry operation bypasses the ink pit and is discharged to the sanitary sewer.

The "Summary Report for Lorton Sewage Treatment Plant, Toxicity Reduction Verification", August 1997, states in part that:

A discussion with the facility maintenance personnel indicated that the industrial laundry operation had been terminated since November 1995. However, the two industrial size washing machines that were used for industrial washing operating [sic] have since been used for domestic laundry operation. The wash water from the two washing machines discharges to the ink pit before entering the sanitary sewer system. This wash water, thus, potentially could wash down toxic substances (sludge and scum) that are in the ink pit. According to the original toxicity control plan, the accumulated materials in the ink pit would be removed for off-site disposal, the ink pit would be abandoned in-place and investigated for possible soil and groundwater contamination, and the washing machine discharge lines would be rerouted to by-pass the ink pit.

*VHWMR 9 VAC 20-60-110.C.3 (§3.1.C.3) states that, a manufacturing process unit or an associated nonwaste treatment manufacturing unit is not subject to regulations contained in Part IV to XI and Part XV until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more*

*than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of the product or raw materials.*

*Under VHWMR 9 VAC 20-60-340 (§6.1), a person who generates a solid waste shall determine if that waste is a hazardous waste.*

5. Numerous unattended drums were observed around the facility. Some drums were in poor condition; some were labeled (*i.e.*, hazardous waste) some were dated (*i.e.*, April 11, 1996), but the majority were unmarked or illegibly marked.

*Under VHWMR 9 VAC 20-60-340 (§6.1), a person who generates a solid waste shall determine if that waste is a hazardous waste.*

*In accordance with the VHWMR 9 VAC 20-60-370.E.1.b (§6.4.E.1.b), the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container and the VHWMR 9 VAC 20-60-370.E.1.c (§6.4.E.1.c), each container and tank is labeled or marked clearly with the words, "Hazardous Waste".*

*Under VHWMR 9 VAC 20-60-370.E.2 (§6.4.E.2), a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Parts IX, or X and XI unless he has been granted an extension to the 90-day period.*

These issues were discussed with Ray Sullivan, DCDC - Industries, and Ajay Kapoor, DCDC - Facilities, during the visit.

#### **Underground Storage Tanks (Code Title 62.1 *et. seq.*)**

#### **B. State Water Control Law, Article 9; UST Regulations (9 VAC 25-580-10 *et. seq.*) .**

Listed below are the UST noncompliance issues found during the Lorton inspection on May 12 - 14:

1. Based on the records reviewed and information provided during the inspection, it appears that DCDC has several UST's that have been in use since the 1960's, several installed after 1986, and has not registered any of its regulated UST's.

*Virginia UST regulations (9 VAC 25-580-70 A - Notification Requirements) require that all regulated UST's in use on and after May 8, 1986 be registered with DEQ.*

2. Based on information provided during the inspection, it appears that DCDC has closed UST's, has taken several UST's out of service, and some of these UST's may still contain product. At the time of the inspection, DCDC did not produce any closure records for the UST's that have been closed.

*Virginia UST regulations require that a closure assessment be performed on all regulated UST's closed and taken out of service on or after October 25, 1989. The assessment must be submitted to DEQ along with a notification form within 30 days of the UST closure. (9 VAC 25-580-320 A - C - Permanent closure and changes-in-service; 9 VAC 25-580-333 A - C - Assessing the site at closure or changes in service; 9 VAC 25-580-350 -Closure Records)*

- 3) Observations made during the inspection indicate that DCDC is operating several UST's for product storage (new oil and used oil) and fuel storage. When asked to provide leak detection records for these UST's, DCDC produced inventory paperwork for the fuel UST's at the both vehicle maintenance facilities. These records showed that DCDC is gauging the fuel UST's at the new vehicle maintenance facility every one to two weeks. From these same records there is no indication that DCDC has gauged the fuel UST's at the old vehicle maintenance facility since April 1997, is keeping leak detection records for the fuel and product UST's, can produce leak detection records from previous years for these UST's, and has inventory documentation for the product storage UST's.

*Virginia UST regulations require monthly leak detection on regulated UST's that meets the criteria of a method listed in the regulations. The regulations also require that leak detection records for UST's be maintained. (UST's for fueling emergency power generators are deferred from leak detection requirements. 9 VAC 25-580-130 A, B, D) General requirements for all petroleum and hazardous substance UST systems; 9 VAC 25-580-140 A, B - Requirements for petroleum UST systems; 9 VAC 25-580-160 A - H - Methods of release detection for tanks; 9 VAC 25-580-180 - Release detection record keeping.*

- 4) Based on the records provided, there is no indication that DCDC is performing monthly leak detection on piping associated with the regulated UST's at both vehicle maintenance facilities.

*Virginia UST regulations require that leak detection be provided for piping associated with regulated UST's using a method specified in the regulations. Records for leak detection monitoring for piping be maintained. (9 VAC 25-580-130 A - General requirements for all petroleum and hazardous substance UST systems; 9 VAC 25-580-*

*170 - Methods of release detection for piping; 9 VAC 25-580-180 - Release detection record keeping.)*

5. From observations made during the inspection, it appears that DCDC is operating one new UST without spill and overfill protection and is operating two new UST's that do not appear to have corrosion protection on the piping associated with the UST's.

*Virginia UST regulations require that UST's installed after December 22, 1988, (designated as "new tanks") are required to meet certain performance standards including corrosion protection, spill protection and overfill protection at the time of the installation. (9 VAC 25-580-50 B & C.1 - Performance standards for new UST systems - Piping and Spill and overfill protection equipment).*

6. During the inspection, petroleum contamination was observed in two areas at the Lorton Dairy. Saturated soil was noted around the dispenser and the fill area, and stained soil was noted around an out-of-service heating oil UST.

*Article 11 of the State Water Control Law prohibits the discharge of oil to State waters and lands. (Title 62.1-44.34:18.A - Discharge of oil prohibited; liability for permitting discharge).*

#### **Aboveground Storage Tanks (Code Title 62.1 et. seq.)**

#### **C. State Water Control Law, Article 11; Oil Discharge Contingency Plans and Administrative Fees For Approval Regulations (9 VAC 25-90-10 et. seq.) .**

1. Observations made and information obtained during the inspection indicate that Lorton Correctional Institute is operating a facility with above ground tanks having a maximum storage or handling capacity greater than 25,000 gallons. Subsequent review of DEQ-NVRO files showed that no Oil Discharge Contingency Plan (ODCP) has been submitted to, or approved by, DEQ.

*Virginia regulations require that contingency plans must be filed with and approved by the Board. (Code § 62.1-44.34:15. and 9 VAC 25-90-50).*

#### **ENFORCEMENT AUTHORITY**

Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the Law, any State Water Control Board rule or regulation, order, permit condition,

Lorton Correctional Institute  
NOV# 98-07-NVRO-023

standard, or any certificate requirement or provision. Section 62.1-44.32 provides for a civil penalty up to \$25,000 per day of violation. Code § 62.1-44.15(8a) authorizes the Board to issue special orders to persons for such violations.

Code § 62.1-44.34:20 of Article 11 the State Water Control Law provides for an injunction for any violation of the Law, and State Water Control Board regulation, order, or any term or condition of an approval. Section 62.1-44.34:20 provides for a civil penalty ranging from \$100 up to \$100,000 per violation depending on the type of violation and potentially more than \$100,000 depending on the volume of oil discharged. Additional civil penalties can be assessed for each additional day of violation.

Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Act, any Waste Management Board regulation, any condition of a permit or certification, or order. The same statute provides for a civil penalty up to \$25,000 per day of such violation. Code § 10.1-1455 also authorizes the Board to issue orders to address such violations.

In addition, Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act, State Water Control Law, and regulations, and to impose a civil penalty of not more than \$10,000.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorney's fees and costs.

#### FUTURE ACTIONS

The staff must make a recommendation about how to proceed with these matters and whether to initiate an enforcement action based on these facts. You may be asked to enter into a Consent Special Order with the Department to formalize your plan and schedule of corrective action and to settle any outstanding issues regarding these matters, including the payment of civil charges.

Please note that DCDC (Industries) is currently subject to continued enforcement action for training issues associated with the December 12, 1996, and December 5, 1997, hazardous waste inspections conducted pursuant to the Virginia Hazardous Waste Management Regulations.

Please respond, in writing, within **30 days** of receipt of this letter. Your response should include any relevant information if you dispute any of the facts stated, any other

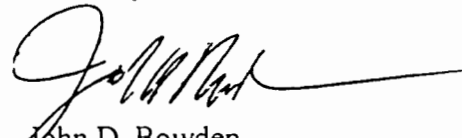
Lorton Correctional Institute  
NOV# 98-07-NVRO-023

information you believe DEQ should consider, details of any corrective actions you have initiated or plan to initiate, and the schedule for doing so.

If you wish, a meeting to discuss the resolution of these issues can be arranged.

Your point of contact for the items addressed in this letter is Mr. Jon D. Terry. Mr. Terry can be reached by phone at (703) 583-3872 or by e-mail at [jdterry@deq.state.deq.va.us](mailto:jdterry@deq.state.deq.va.us).

Sincerely,



John D. Bowden  
Regional Compliance and Enforcement Manager

cc: DEQ-NVRO C/M Waste  
DEQ-NVRO C/M Water  
DEQ-NVRO Remediation  
DEQ-NVRO, Anne Crosier  
USEPA-RIII, Garth Connor